

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

Docket No. FIFRA-08-2003-0011

IN THE MATTER OF:	)	
	)	
	)	
Russell Dionisio,	)	
d.b.a Dionisio Farms	)	<b>FINAL ORDER</b>
38546 East Highway 50	)	
Pueblo, Colorado 81006,	)	
	)	
	)	
	)	
RESPONDENT	)	
	)	

Pursuant to 40 C.F.R. § 22.18(b)(3) of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Consent Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Consent Order.

So ORDERED, this 30TH day of June, 2003.

**SIGNED**

\_\_\_\_\_  
Alfred C. Smith  
Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

Docket No. FIFRA-08-2003-0011

**IN THE MATTER OF:**

Russell Dionisio  
d.b.a. Dionisio Farms,  
38546 East Highway 50  
Pueblo, Colorado 81006,

Respondent.

**CONSENT AGREEMENT**

Complainant, United States Environmental Protection Agency, Region VIII ("EPA"), and Russell Dionisio, d.b.a. Dionisio Farms, ("Respondent"), by their undersigned representative(s), hereby consent and agree as follows:

**I. PRELIMINARY STATEMENT**

1. This matter is subject to 40 C.F.R. Part 22. This Consent Agreement is entered into by the parties for the purpose of concluding this matter, as provided for in 40 C.F.R. section 22.18(b)(2).
2. The Complaint filed in this matter alleges that Respondent failed to display specific pesticide application information, as required by the Worker Protection Standard ("WPS"), codified in 40 C.F.R. part 170, in violation of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. section 136j(a)(2)(G).

3. This Consent Agreement (hereafter the "Consent Agreement") applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in the constitution of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement.
4. Respondent waives its right to a hearing on any issue of law or fact set forth in this Pleading.
5. Respondent admits the jurisdictional allegations contained herein and neither admits nor denies the specific factual allegations contained in the Complaint filed in this matter.

## **II. TERMS OF SETTLEMENT**

6. The Complaint filed in this matter proposed a higher penalty assessment than the amount agreed to herein. For good cause shown, and for the purposes of settlement, Complainant agrees to reduce the penalty proposed in the Complaint to ONE THOUSAND SEVEN HUNDRED AND SIXTY DOLLARS (\$1,760).
7. Respondent consents to the issuance of a Final Order which incorporates the terms and conditions of this Consent Agreement, and to pay the civil penalty set forth in Paragraph 8 below.
8. Respondent agrees to pay a penalty in the amount of ONE THOUSAND SEVEN HUNDRED AND SIXTY DOLLARS (\$1,760).

9. Respondent agrees to pay the above stated penalty amount on or before August 15, 2003. This payment shall be made by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," to:

Mellon Bank  
EPA Region VIII  
(Regional Hearing Clerk)  
P.O. Box 360859M  
Pittsburgh, PA. 15251

The check shall reference the name and address of Respondent's facility and the EPA docket number (Docket No. FIFRA-08-2003-0011) of this action. A copy of the check shall be sent simultaneously to:

Tim Osag  
Technical Enforcement Program (8ENF-T)  
U.S. EPA Region VIII  
999 18<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202-2466

10. Respondent agrees and consents that if Respondent fails to pay the penalty amount on the due date set forth in paragraph nine (9) above, interest on the penalty amount or any unpaid balance shall accrue at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A late payment charge of twenty dollars (\$20.00) shall be imposed after the first 30 days that the payment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the payment due is made. In addition, a six

percent (6%) per annum penalty shall be applied on any principal amount not paid by the due date set forth in Paragraph 9 above.

11. This Agreement shall not relieve Respondent of their obligation to comply with all applicable provisions of federal, state or local law.
12. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violations alleged in the Complaint filed in this matter.
13. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Pleading and to execute and legally bind that party to this Pleading.
14. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this Pleading.

IN THE MATTER OF: Russell Dionisio, d.b.a Dionisio Farms,  
Docket No. FIFRA-08-2003-0011

UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY, REGION 8,  
OFFICE OF ENFORCEMENT, COMPLIANCE, AND  
ENVIRONMENTAL JUSTICE,

Complainant.

Date: 6/30/03 By: David J. Janik  
Michael T. Risner, Director  
David J. Janik, Supervisory  
Enforcement Attorney  
Legal Enforcement Program

Date: 6/30/2003 By: Timothy Osag for/  
Elisabeth Evans, Director  
Technical Enforcement Program

Date: 6/30/2003 By: SIGNED  
Eduardo Quintana  
Enforcement Attorney  
Legal Enforcement Program  
Phone: (303)-312-6924  
FAX: (303) 312-6953

IN THE MATTER OF: Russell Dionisio, d.b.a Dionisio Farms,  
Docket No. FIFRA-08-2003-0011

Russell Dionisio, d.b.a Dionisio Farms,  
Respondent.

Date: 6/28/03

By: SIGNED

NAME: **Russell Dionisio**

TITLE: **d/b/a Dionisio Farms**

## **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **RUSSELL DIONISIO, d/b/a DIONISIO FARMS, DOCKET NO.: FIFRA-08-2003-0011** was filed with the Regional Hearing Clerk on June 30, 2003.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on June 30, 2003, to:

Russell Dionisio  
Dionisio Farms  
38546 East Highway 50  
Pueblo, CO 81006

June 30, 2003

**SIGNED**

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Tina Artemis  
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON JUNE 30, 2003.**



